

§ 71.79

the public subject to such restrictions and limitations as may be consistent with orderly procedure.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 71.79 Suspension, revocation, or annulment.

(a) The administrative law judge who presides at the hearing in proceedings for the suspension, revocation and annulment of permits shall make the initial decision.

(b) If no hearing is requested, the appropriate TTB officer shall make the initial decision.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

BURDEN OF PROOF

§ 71.80 Applications.

In hearings on the contemplated disapproval of applications there may be incorporated in the record sufficient testimony, reports, affidavits and other documents to be considered only for the limited purpose of establishing probable cause for the issuance of the notice of contemplated disapproval by showing that the appropriate TTB officer had reason to believe that the applicant is not entitled to a permit. The burden of proof shall be upon the applicant to produce evidence to show he is entitled to a permit. The appropriate TTB officer may, instead of following the aforementioned procedure, assume the burden of going forward.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 71.81 Suspension, revocation, or annulment.

In hearings on the suspension, revocation, or annulment of a permit, the burden of proof is on the Government.

[T.D. ATF-199, 50 FR 9197, Mar. 6, 1985]

GENERAL

§ 71.82 Stipulations at hearing.

If there has been no prehearing conference under § 71.66, the administra-

27 CFR Ch. I (4-1-15 Edition)

tive law judge shall at the beginning of the hearing, require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of fact concerning which there is no substantial dispute. The administrative law judge should take similar action, where it appears appropriate, throughout the hearing and should call and conduct any conferences which he deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved.

§ 71.83 Evidence.

Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as possible: *Provided*, That the administrative law judge may relax such rules in any hearing when in his judgment such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Except as provided in § 71.81, the proponent of an order shall have the burden of proof. Every party shall have the right to present his case or defense by oral or documentary evidence, depositions, duly authenticated copies of records and documents, to submit rebuttal evidence, and to conduct such reasonable cross-examination as may be required for a full and true disclosure of the facts. The administrative law judge shall have the right in his discretion to limit the number of witnesses whose testimony may be merely cumulative and shall, as a matter of policy, not only exclude irrelevant, immaterial, or unduly repetitious evidence but shall also limit the cross-examination of witnesses to reasonable bounds so as not to unnecessarily prolong the hearing and unduly burden the record. Material and relevant evidence shall not be excluded, because it is not the best evidence, unless its authenticity is challenged, in which case reasonable time shall be given to establish its authenticity. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and